MASSACHUSETTS BAY TRANSPORTATION AUTHORITY

REQUEST FOR PROPOSALS (RFP)
RFP#:70-22
RFP: FERRY DOCKING FACILITY

Date Issued: April 29, 2022

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Attn: Bidder/s
Request for Proposals (RFP) #70-22 Ferry Docking

Description: 70-22

Dear Madam/Sir,

The Massachusetts Bay Transportation Authority ("MBTA" or "Authority"), a corporate and a political subdivision of the Commonwealth of Massachusetts, existing pursuit to Mass. Gen. Laws, Chapter 161A (as amended) invites Bidders/Respondents to participate in the competitive bid to provide a 70-22. The Scope of Work is outlined below in Section 2. The MBTA may at its own discretion award contract(s) to one or multiple Bidders/RespondSeeents. All formal communication with the MBTA during the bidding period shall be only through the designated point of contact.

The MBTA's designated point of contact for this solicitation will be:

Roger Mann, Sr. Director of Real Estate
Massachusetts Bay Transportation Authority
10 Park Plaza, Room 2810
Boston, MA 02116
Email: RMann@MBTA.com

All interested parties interested in this RFP must submit proposals electronically via email no later than 6/15/2022 2:00 PM, in full compliance with this RFP including but not limited to Section 3, Bidders/Respondents Instructions and Procurement Process. This RFP shall remain in force until the execution of the Contract, or until modified or cancelled by the MBTA.

Respectfully,

Roger Mann, Sr. Director of Real Estate

Massachusetts Bay Transportation Authority
RFP: **70-22**

1. INTRODUCTION

The Massachusetts Bay Transportation Authority ("MBTA" or "Authority") seeks a multi-year lease for dock space. The dock must be exclusively dedicated to the MBTA and have 750 linear feet of illuminated dock as well as power hookups and water as further described herein.

1.1 Additional documents included with this RFP

1.1.1 Attachment 1 – Example Lease

1.1.2 Attachment 2 – Insurance Requirements

1.1.3 Attachment 3 – Form B: Technical Response Form

1.1.4 Attachment 4 – Form C: Price Proposal

2. SCOPE OF WORK

2.1 Marina/Dock Requirements, Building Requirements, and Upland Site Requirements

2.1.1 **Location** – the docks must be in Boston Harbor, Quincy Bay or Hingham Bay, and within ~12 miles of Long Wharf with minimal disruptions to allow the operator to adhere to the MBTA's published ferry schedule. Water travel distance is an evaluation consideration.

2.1.2 **Dock Size, Features, Ability to Modify:**

2.1.2.1 The facility must provide a minimum of 750' linear feet of illuminated dock, which is usable at mean low tide. A minimum draft requirement of 15-20 feet at Mean Low Water must be available and maintained by the dock manager.

2.1.2.2 The facility should be able to support four vessels of not less than 70-foot width and 400-foot length to have unobstructed navigation to allow for berthing.

2.1.2.3 The MBTA requires the ability to modify the dock to allow for electrical distribution to vessels, and the ability to install additional floating docks (barges) and gangways to accommodate layout systems of not less than 200 feet in length.

2.1.3 **Other Dock Requirements:** The facility must provide a safe and convenient navigable waterway to the berthing area

2.1.4 **Inclement Weather Protection:** The facility must provide industry best practices to protect the MBTA's facilities from inclement weather impacts, upland and within the waterway.

2.1.5 **Exclusive Secure Site** – The MBTA requires a fenced-off, gated site with controlled access and the ability to provide 24-hour security. The MBTA requires the rights to install its own camera monitoring and or alarm system at the facility.

2.1.6 **Power/Energy -** At the dock, the MBTA requires that the facility provide utility connections at the bulkhead so that the MBTA would have the ability to access a separately metered distribution of electrical power at the dock

head and along the dock.

2.1.7 **Access to Potable Water and Wastewater Connection** -The MBTA requires access (hookup) to potable water at the MBTA dock or if available elsewhere on the site, the Respondent must describe the site's options.

2.1.8 **Vessel Septic Pump Out**: The MBTA requires on-site capability for vessel septic pump out. The Respondent will describe the site's options.

2.1.9 **On-site Fuel Service**: The MBTA requires on site capability for fueling vessels. The Respondent will describe the site's options.

2.1.10 **Parking**: The MBTA requires 20 on-site parking spaces for employee, contractor, vendor, and visitor vehicles.

2.1.11 **Exterior Storage/Laydown Area:** The MBTA requires ~2,500 square feet of generally rectangular exterior storage and laydown area, close to MBTA-occupied buildings. MBTA requires that the area to be fenced in, or able to be fenced in.

2.2 **Building Facilities:** The MBTA requires the space in building(s) to include restroom facilities (including toilets, sinks, shower stalls) that comply with accessibility requirements, including Massachusetts Architectural Access Board, Americans with Disability Act, and any other applicable regulations.

2.2.1 **Interior Shop/Storage Area**: The MBTA requires not less than 3,600 square feet of rentable space, for storage, maintenance, and operations, (can be warehouse type space), preferably located within a reasonable walking distance from the dock. Should include one at grade door opening with minimum dimension 12' wide and 14' high

2.2.2 **Office Area:** The MBTA requires ~1,000 square feet of climate-controlled office space preferably located within a reasonable walking distance from the dock.

Additional Facility Requirements:
Building: Separately metered electricity to support 200-400 Amps, 120/240 VAC
Building: Restrooms with showers and toilets, and that comply with applicable accessibility requirements. Buildings and upland areas must be free of barriers that prevent access to and use of the property by individuals with disabilities.

Upland Portion of the Facility (Site):
Landlord Services
Landlord must provide continuous maintenance and repair services needed to maintain the Premises in good repair and tenantable condition. The MBTA plans to utilize the Premises for operation and support of a ferry terminal and related activities, throughout the year, for 24 hours each day, 7 days per week, including holidays (the "Operating Hours"). For this reason, Landlord must maintain hours of operation for the Premises that are consistent with the Operating Hours. During the Operating Hours, Landlord must:

- Keep all entrances, exits, pedestrian walkways, parking areas and berthing areas free from accumulations of snow and ice
- Keep the Premises free from litter and pests
- Enable authorized employees and contractors of MBTA and its ferry operator to access the Premises at any time.

2.3 Expected Contract Duration

2.3.1 The maximum initial term of the lease shall not exceed five years. There shall be three (3) five-year options exercisable at the MBTA's discretion.

2.4 Legal

2.4.1 The proposed facility must be compliant with local, state, and federal law and be permitted (or able to be permitted through standard, nondiscretionary approvals) to conduct the type of use contemplated hereunder.

2.4.2 As a corporate and political subdivision of the Commonwealth of Massachusetts, the Authority is subject to certain statutory, regulatory, and policy requirements for all its facility leases. As such, the terms and conditions of any final lease must be compliant with state law and MBTA policy relative to facility leases.

3. BIDDERS INSTRUCTIONS

3.1 Bidders' Conference

The MBTA will hold a Bidders' conferences with all Bidders on May 5 at 10:00 AM. Bidders may access the conference by using the following link - Click here to join the meeting or by dialing 929-352-1865 and using code 560-196-460, The Bidders' conference will permit interactive communication between all Bidders and the MBTA. The MBTA will provide notice of any Bidders' conference via COMMBUYS. If a Bidders' conference is conducted by telephonic or electronic means, the notice will inform Bidders of the manner of the meeting.

Each Bidder, by submittal of its Response, acknowledges the opportunity to attend any Bidders' conference, if held, was offered to all Bidders, and waives any right to challenge this procurement based on its attendance at, or failure to attend, a Bidders' conference.

Each Bidder is encouraged to attend Bidders' conferences, if held, with appropriate members of its proposed staff, and if requested by the MBTA, senior representatives of proposed team members identified by the MBTA. Nothing stated at any Bidders' conference or included in a written record or summary of a Bidders conference will modify this RFP or any other part of the RFP unless it is incorporated in an addendum issued.

3.2 RFP Calendar and Delivery Instructions

Bidder is required to prepare and submit all required documents to MBTA electronically via email.

The MBTA anticipates carrying out the procurement process in accordance with the schedule noted in the table below. All times are local Boston, Massachusetts, USA, times unless otherwise indicated. The schedule is subject to modification at the sole discretion of the MBTA. Bidders will be notified of any change by an addendum to this RFP.

TABLE: RFP CALENDAR

Procurement Activity	Date	Time
RFP issued	4/29/2022	
Pre-bid: Click here to join the meeting Call in – 929-352-1865 code 560-196-460	5/5/2022	10:00 am
Deadline for submission of Bidder questions via COMMBUYS Q&A	5/9/2022	2:00 p.m.
Official Answers for Bid Q&A published by MBTA on COMMBUYS	5/16/2022	2:00 p.m.
Response Due Date	6/15/2022	2:00 p.m.
Contract Execution (estimated)	6/30/2022	
Lease Start Date – determined by when the space is available for occupancy with Certificate of Completion.	TBD	

4. SUBMISSION OF RESPONSE

4.1 Response Submissions

Responses shall be submitted via email with the bid packages sent to Roger Mann, Sr. Director of Real Estate, email: RMann@MBTA.com

Each Response shall be submitted in the following two parts along with Enclosure 1 Bid Cover Letter:

a) The Technical Proposal

b) The Price Proposal

5. SELECTION PROCESS AND EVALUATION

5.1 Response Opening and Confidentiality

All information received from each Bidder will be treated as confidential information and will not be distributed prior to Contract execution, other than for the purpose of evaluation of the Response.

5.2 Responsiveness Review and Basis of Award

The MBTA reserves the right, in its sole discretion, to determine if a Bid is responsive and the Bidder is responsible. In determining whether a Bidder has demonstrated the ability to perform successfully under the terms and conditions of the proposed procurement, the MBTA will consider such matters as the Bidder's integrity, compliance with public policy (e.g., EEO record, attainment of DBE goal, debarment status, etc.), record of past performance, and financial and technical resources. Bidder is required to complete **Form A: Pre-Award Bidder Evaluation Data Form.**

Upon receipt, the Technical Proposals will be reviewed for responsiveness to the RFP requirements. The Technical Proposals will be reviewed for (i) deficiencies and minor informalities, irregularities, and apparent clerical mistakes which are unrelated to the substantive content of the Response; (ii) conformance to the RFP instructions regarding organization and format; and (iii) the responsiveness of the Bidder to the requirements set forth in this RFP. The MBTA may request Bidder clarification of any

minor informalities, irregularities, and apparent clerical mistakes, after which the MBTA may evaluate the Response, at the MBTA's sole discretion.

Those Technical Proposals not responsive to this RFP may at the MBTA's sole discretion be excluded from further consideration and the Bidder will be so advised.

After completion of the evaluation of the remaining Technical Proposals, the remaining Price Proposals will be reviewed for responsiveness to the RFP requirements. The Price Proposals will be reviewed for (i) deficiencies and minor informalities, irregularities, and apparent clerical mistakes which are unrelated to the substantive content of the Response; (ii) conformance to the RFP instructions regarding organization and format; and (iii) the responsiveness of the Bidder to the requirements set forth in this RFP. The MBTA may request Bidder clarification of any minor informalities, irregularities, and apparent clerical mistakes after which the MBTA may evaluate the Response, at the MBTA's sole discretion.

Those Price Proposals not responsive to this RFP may at the MBTA's sole discretion be excluded from further consideration and the Bidder will be so advised.

The MBTA may also exclude from consideration any Bidder whose Response contains a material misrepresentation.

5.3 Evaluation and Notification

Based on the information provided in each Response, the MBTA will perform Response evaluation and seek clarifications as necessary through requests for clarification or in meetings to be arranged at MBTA discretion. The MBTA will evaluate **Responses based on a combination Technical Evaluation Criteria and Price Evaluation Criteria.** The process may, at the MBTA's sole discretion, include requests for additional written information or clarification from any Bidder to assist in evaluation, include oral interviews and/or inspections of the proposed facilities, include a request for best and final offers ("BAFOs"), and include a negotiations phase with the selected Bidder

5.4 Technical Response and Evaluation Criteria

Each criterion will be evaluated considering all the information included in the Technical Proposal related to the criterion, as well as other information gathered from references, presentations, and on-site visits.

The MBTA may at its own expense and upon reasonable notice, visit and inspect current operations of the Bidder and/or any proposed subcontractors, including the premises, facilities, equipment, personnel, and other resources, and carry out related appraisals as part of the Response evaluation prior to entering into any Contract.

The Technical Evaluation Criteria are identified and detailed below.

Technical Response and Evaluation Criteria
Facility meets the requirements listed in the scope of work
Timeline for lease to commence

The Technical Evaluation Criteria will be rated using a numerical rating approach. This will be based on the following scoring scale.

a) **Excellent (5 Points Awarded):** The Bidder has presented and supported an approach that is considered to significantly exceed stated criteria in a way that is beneficial to the MBTA. This rating indicates a consistently outstanding level of quality, with very little or no risk that this Bidder would fail to meet the requirements of the solicitation. There are no weaknesses.

b) **Good (4 Points Awarded):** The Bidder has presented and supported an approach that is considered to meet the stated criteria. This rating indicates a generally better than acceptable quality, with little risk that this Bidder would fail to meet the requirements of the solicitation. Weaknesses, if any, are very minor and not material to the Response. Correction of the weaknesses would not be necessary before the Response would be considered further.

c) **Satisfactory (3 Points Awarded):** The Bidder has presented and supported an approach that is considered to possibly meet the stated criteria. This rating indicates a level of risk to the MBTA. Weaknesses exist but may be corrected through requests for clarification.

d) **Fair (2 Point Awarded):** The Bidder has presented and supported an approach that fails to meet stated criteria and would pose a clear risk to the MBTA. The issues may be susceptible to correction through major and lengthy discussions. Such a response is considered marginal in terms of the basic content or amount of information provided for evaluation.

e) **Poor (1 Points Awarded):** The Bidder has presented and supported an approach that indicates significant weaknesses or unacceptable quality or fails to include evidence that it can provide the services requested. The Response fails to meet the stated criteria or lacks essential information. There is no reasonable likelihood of success; weaknesses are so major or extensive that a major revision to the Response would be necessary.

5.5 Price Proposal Evaluation

Price will be evaluated in combination with The Technical Evaluation Criteria listed above. While the MBTA seeks to minimize costs, the selection of a winning Proposal will be made on a best-value basis. The MBTA will seek the lowest total cost to the MBTA, which will consider, among other aspects, the lease price as well as fuel cost associated with "Dead-Head" trips from Long Wharf to the facility and back.

5.6 Basis of Award: Best – Value Proposal

Bidder is advised that the MBTA shall not be bound to accept the lowest priced Response or the Response with the highest technical Proposal Score. The selection will be made on a best-value basis, evaluating price along with other factors. For purposes of this procurement, all evaluation factors other than price, when combined, are more important than the lowest price. Therefore, the MBTA may decline to select the lowest-priced, technically acceptable Proposal, if the MBTA determines that another, higher-priced Proposal demonstrates sufficient additional technical merit to justify the additional cost. Similarly, price will be an important factor in differentiating between Proposals of comparable technical merit.

In order to make a selection, the MBTA will determine whether the Responses are responsive and evaluate both the Pass/Fail Evaluation Criteria and Technical Evaluation Criteria, and assign an overall

Technical Proposal Score. After the determination of the Technical Proposal Score, the MBTA will evaluate the Price Evaluation Criteria of the remaining Bidders and assign an overall Price Proposal Score. To determine the best value, the MBTA will then conduct a trade-off analysis determining whether the perceived benefits of the higher priced Response merit the additional cost.

The MBTA will not select any Bidder that receives a rating of fail on any Pass/Fail Evaluation Criteria or less than an average of 2 on any Technical Evaluation Criteria. The MBTA will not select any Bidder that the MBTA determines has submitted a non-responsive Technical or Price Proposal or to have submitted any pricing information that is not reasonable. The MBTA reserves the right to accept or reject, at its sole discretion, any or all Responses in full or in part.

5.7 Successful Bidder

The successful Bidder will be notified via email. All unsuccessful Bidders shall immediately return all confidential information to the MBTA.

5.8 MBTA Reserved

In connection with this RFP, the MBTA reserves to itself all rights (which rights shall be exercisable by the MBTA in its sole discretion) available to it under applicable laws, including without limitation, with or without cause and with or without notice, the right to:

a) Modify the RFP process in its sole discretion to address applicable law and/or the best interests of the MBTA.

b) If the MBTA is unable to negotiate a Lease to its satisfaction with a Bidder, it may negotiate with the Bidder with the next highest ranked proposal, terminate this RFP and pursue other developments or solicitations relating to the Lease, or exercise such other rights under the provisions of Massachusetts law as it deems appropriate.

c) Cancel this RFP in whole or in part at any time prior to the execution by the MBTA of a Lease, without incurring any cost, obligations, or liabilities.

d) Issue a new Request for Proposals after withdrawal of this RFP.

e) Not select any Bidder or cancel this procurement.

f) Reject any or all submittals and Responses received at any time.

g) Modify all dates set or projected in this RFP.

h) Terminate evaluations of Responses received at any time.

i) Exclude any potential Bidder from submitting any response to the RFP based on failure to comply with any requirements of those documents.

j) Suspend and terminate Lease negotiations at any time, elect not to commence Lease negotiations with any responding Bidder, and engage in negotiations with the Bidder with the next highest ranked proposal if negotiations are unsuccessful with the apparent successful Bidder.

k) Issue addenda, supplements, and modifications to this RFP.

l) Appoint an Evaluation Team to evaluate Responses, make recommendations to the MBTA Board of Directors and MassDOT Board of Directors, and seek the assistance of MBTA, MassDOT, and consultant technical experts in Response evaluations.

m) Require confirmation or clarification of information furnished by a Bidder, require revised or additional information from a Bidder concerning its Response, and require additional information to clarify the Response submitted in response to this RFP.

n) Conduct presentations with Bidders, identify a short-list of Bidders, and conduct on-site visits at Bidder facilities.

o) Declare a competitive range, conduct discussions, and request Response revisions and best and final offers.

p) Seek or obtain data from any source that has the potential to improve the understanding and evaluation of the responses to this RFP.

q) Add or delete Bidder responsibilities from the information contained in this RFP.

r) Waive deficiencies in a Response, accept and review a non-conforming Response, or permit clarifications, revisions, or supplements to a Response.

s) Negotiate with a Bidder without being bound by any provision in its Response or choose to award and/or execute the Lease without negotiations.

t) Disqualify any Bidder that changes its submittal without MBTA approval.

u) Disqualify any Bidder under this RFP for violating any rules or requirements of the procurement set forth in this RFP or in any other communication from MBTA.

v) Delay issuance of notice to proceed after execution of the Lease.

w) Conduct all or any portion of the Scope of Work itself.

x) Exercise any other right reserved or afforded to the MBTA under this RFP.

This RFP does not commit the MBTA to enter into a Lease or proceed with the procurement described herein. The MBTA assumes no obligations, responsibilities, and liabilities, fiscal or otherwise, to reimburse all or part of the costs incurred or alleged to have been incurred by parties considering a response to and/or responding to this RFP. All such costs shall be borne solely by each Bidder.

In no event shall the MBTA be bound by, or liable for, any obligations with respect to the matters described herein until such time (if at all) as the Lease, in form and substance satisfactory to the MBTA, has been executed and authorized by the MBTA and, then, only to the extent set forth therein; provided, however, that the foregoing disclaimer in this sentence shall not apply to the obligations of the MBTA to the Bidders during the procurement process, which obligations are expressly set forth in this RFP. In submitting a Response to the RFP, each Bidder is specifically acknowledging these disclaimers.

5.9 Appeal / Protest Procedures

Bid appeals / protests relative to this procurement will be reviewed and adjudicated in accordance with the MBTA's Appeals / Protest Procedure - Goods & Services. A copy of this procedure is available online at www.mbta.com.

6. LEASE STRUCTURE

The winning Bidder shall execute a lease with the MBTA substantially consistent with the attached form. Please see Attachment 1 – Example Lease

Enclosure 1 – Bid Cover Letter

Massachusetts Bay Transportation Authority
Attention: Procurement and Logistics Department
10 Park Plaza, Suite 2810
Boston, MA 02116

Instructions: Bidders shall complete the Bid Cover Letter below with their company name, total bid amount, and completed check boxes to indicate the bid documents that constitute their bid. **The Bid Cover Letter should be placed on the top of all bid documents when submitted to the MBTA.**

RFP #:	70-22
Project Name:	Ferry Docking Facility
Bidder (Company Name):	

The undersigned Bidder having carefully examined and understood the documents included in the Request for Proposals ("RFP"), hereby offers to MBTA the "*Bid"* as contained in the following responses enclosed with this letter:

Forms	Check to Indicate Submitted Bid Documents
Form A: Pre-Award Bidder Evaluation Form	☐
Form B: Technical Response	☐
Form C: Pricing Response	☐
Proof of Insurance (Insurance Requirements are Referenced in Attachment 2 of this RFP).	☐

We confirm that our Bid is in exact accordance with the solicitation with no exceptions to, or comments upon, the solicitation documents. We confirm that the submission of our Bid with the signature below makes all certifications as outlined in the solicitation documents. This Bid shall constitute a binding offer open for acceptance by the MBTA.

We confirm that this Bid has been prepared and is compliant with the solicitation instructions and agree to conduct ourselves in accordance with the solicitation. We confirm receipt of all addenda related to this solicitation. We confirm the 180 days Acceptance Period of this Proposal.

The undersigned are authorized to sign on behalf of and to bind _____ (include Bidder's name) to the provisions of this Bid.

Bidder (company name): _____

Authorized Representative Name: _____

(BLOCK LETTERS)

Authorized Representative's Signature: _____

Title: _____

Date: _____

Form A: Pre-Award Bidder Evaluation Data Form

Pre-Award Bidder Evaluation Data			
Name of Firm:			
Federal Identification Number:			
Legal Address:			
Contact Name:			
Telephone Number:			
Email:			
Please select one: ☐ Individual ☐ Partnership ☐ Corporation ☐ Joint Venture			
Date Organized:		**State Incorporated:**	
Names of Officers or Partners:			
Please provide details of any litigation, suits, or court action taken or pending against Bidder below:			

Please provide the following information that demonstrates that the Bidder together with its selected Affiliates and or Subcontractors has the required capabilities to successfully execute the Work. Please submit as attachments the following requested documents:	**Check Attachment**
Articles of Incorporation	☐
Audited financial statements for the last 3 financial years	☐
Attach, if applicable, a list of similar current contracts that demonstrates your technical proficiency, each with contract value amount, name of contracting party, type of work completed, and percentage of work complete to date.	☐
Attach, if applicable, a list of all principal subcontractors and the percentage and nature and value of work each will perform on this project. Principal items of work shall include, but not be limited to, those	☐

listed in the solicitation.	

Please provide answers to the following questions:	**Check Answer**
Do you have any outstanding indebtedness or unsecured loans, or debts or trading losses not reported within the financial reports?	**Yes** ☐ **No** ☐
Are you currently involved in any legal disputes with MBTA or any other agencies or departments of the Commonwealth of Mass. Please list and describe, if any.	**Yes** ☐ **No** ☐
Attach, if applicable, a list of similar current contract arrangements with tenants that demonstrates your technical proficiency, each with name of contracting party, and type of docking arrangement.	☐
Do you have any contracts over the last two years that were assessed liquidated damages or termination for non-performance?	**Yes** ☐ **No** ☐

If the Bidder or subcontractor is a joint venture, submit this Pre-Award Bidder Evaluation Data form for each member of the joint venture.

Form B: Technical Response

Below is a copy of Form B for RFP Ferry Docking Facility and for example only. Please find the attached excel spreadsheet (Attachment 2–Form B- Tech Response)

Form B: Technical Response		
MBTA RFP Ferry Docking Facility		
	Instructions: Please answer all the questions below	
	Vendor:	
	Question	Answers
•	Where is the Marina/Dock located?	
•	What is the linear footage that will be available to the MBTA?	
•	Please describe the docks/pier per the description in the RFP Scope of Work, (including, but not limited, to size, draft capacity, ability to modify, and the overall facility condition).	
•	When will the facility be ready for the MBTA to occupy? If facility would require design/construction to prepare for occupancy, provide description of construction plan with estimates for delivery, timelines, milestones, etc.	
•	Describe the Facility's Features that provide protection against weather impacts.	
•	Please describe the security system at the docking facility	
•	Does the facility currently have power/electrical access. Please describe	
•	Does the facility have a potable water option? Please describe	
•	Does the facility have a septic pump out capability? Please describe	
•	Does the facility have on site fueling option? Please describe	
•	Does the facility have a employee parking? Please describe	
•	Please describe the exterior storage/ laydown area that will be made available to the MBTA	
•	Please describe the interior shop/storage area. Include proximity to the dock and climate control systems	
•	Please describe the vehicle access into the provided building (vehicle door size and description).	
•	Please describe the office area that will be made available to the MBTA. Include proximity to the dock and security systems	
•	Will the MBTA be allowed to make modifications to the facility? Are there any restrictions? If so, please list the restrictions	
•	Does the proposed site currently meet the requirements listed in the Scope of Work? If not , what needs to be done to meet the minimum requirements?	
•	Is regular dock maintenance/repairs included in the monthly lease?	
•	Is electrical hookup included in the monthly lease or there a separate meter charge?	
•	Other facility features that could contribute to the benefit of MBTA Ferry Service Operations.	

Form C: Pricing Response

Below is a copy of Form C for RFP Ferry Docking Facility and for example only. Please find the attached excel spreadsheet (Attachment 3–Form C- Price Proposal). This should be submitted separately

Form C: Price Proposal			
MBTA RFP Ferry Docking Facility			
Instructions: Please fill in the highlighted cells			
Vendor:			
Lease (dock only)	Annual	5 Year Total	
Years 1-5	$0.00	$0.00	**Basis of Award**
Years 6-10	$0.00	$0.00	
Years 11-15	$0.00	$0.00	
Years 16-20	$0.00	$0.00	
Lease (dock only)			
Additional Services if needed (Mark-up % or Rate)			
Fuel	0%		
Pump out services	$0.00	Per Gallon	
Other	0%		

Addendum 1

RFP 70-22 Ferry Layover Docks
COMMBUYS Bid# 22-1206-MBTA-MBTA-74168

The following table highlights the measurements of the 4 vessels that will be using the facility for layovers

MBTA Commuter Ferry Vessel Name	Length Overall (Feet)	Beam (Feet)	Displacement (Tonnes)	Draft
Flying Cloud	90	30	43	4
Lightning	90	30	43	4
Glory	90	29	81	4.5
Champion	90	29	81	4.5

FERRY LAYOVER FACILITY LEASE

1. SUBJECT MATTER

1.1. Subject Matter

Each of the references in this Ferry Layover Facility Lease (the "Lease") to any of the following subjects incorporates the data stated for that subject in this 1.1 and, unless defined elsewhere in this Lease, constitutes the definition of the listed subject.

DATE OF LEASE:	_____
LANDLORD:	_____
ADDRESS OF LANDLORD:	_____
TENANT:	Massachusetts Bay Transportation Authority, a body politic and corporate and a subdivision of the Commonwealth of Massachusetts existing pursuant to Massachusetts General Laws Chapter 161A
ADDRESS OF TENANT:	Massachusetts Bay Transportation Authority Office of Real Estate and Asset Development 10 Park Plaza Boston, Massachusetts 02116 Attn: Assistant General Manager
PROPERTY (ADDRESS):	_____
PREMISES:	A certain parcel of land and water and the improvements thereon, containing approximately _____ square feet of _____ being the parcel shown on a plan attached as "Exhibit A" prepared by Landlord.

Example

USABLE AREA:	Dock Space: Approximately _____ feet (in aggregate) Office Space: Approximately _____ square feet Warehouse Space: Approximately ____ square feet Exterior Storage Space: Approximately ____ square feet
RESERVED PARKNG SPACES:	_____ parking spaces, including at least ____ handicapped space(s)
PERMITTED USES:	Subject to the provisions hereof, Tenant will use the Premises for operation of a ferry terminal facility (including ferry cleaning, maintenance, and repair), general office uses, storage and warehouse uses, and uses accessory to the foregoing uses.
INITIAL TERM:	The Initial Term begins on the Date of Occupancy, as defined in 3.2, at 12:01 a.m., and continues until 11:59 p.m. of the date immediately preceding the fifth (5th) anniversary of the Date of Occupancy. "Term" includes the Initial Term and any extension terms unless otherwise expressly stated. "Expiration Date" means the last day of the Initial Term or of the then applicable Extension Term, and includes any effective date of termination of this Lease, unless otherwise indicated.
EXTENSION TERM:	Tenant shall have three (3) five-year (5 year) options (see 13.1). An "Extension Term" refers to a single option period of five (5) years.
BASE RENT FOR INITIAL TERM:	_____
ADDITIONAL RENT FOR INITIAL TERM:	_____

2. PREMISES • USABLE AREA

2.1 Premises: Appurtenant Rights

Example

(a) Landlord leases the Premises to Tenant, and Tenant leases the Premises from Landlord.

(b) Tenant shall have the right to access the Premises utilizing the access ways, parking areas and waterways as may be necessary to reach a public way for access via land and water. Landlord shall not undertake activities that would inconvenience or preclude Tenant's access to the Premises. Without limiting the generality of the foregoing, Landlord shall not relocate Tenant's access to the Premises without the written consent of Tenant, which consent may be withheld in Tenant's sole discretion. Landlord shall be responsible for maintenance of the access ways and parking areas shown on Exhibit A, including clearing accumulations of snow and ice from the portion of the parking area that is within the Premises within a timely manner. Landlord shall keep the access ways and parking areas in good and serviceable condition and in compliance with all applicable permits, approvals, laws, regulations and ordinances.

2.2 Usable Area

(a) Intentionally Deleted.

3. RENT • DATE OF OCCUPANCY

3.1 Rent Payment

Tenant agrees to pay, and Landlord agrees to accept, Base Rent and Additional Rent (collectively "Rent") described in 1.1. Equal monthly installments of Rent are payable on or before the tenth day of the calendar month for which Rent is due. If the Initial Term commences other than on the first day of a calendar month or ends other than on the last day of a calendar month, Rent for such fractional month is prorated. Notwithstanding the second sentence of this paragraph, if the Initial Term commences other than on the first day of a calendar month, Tenant pays the prorated Rent for such partial calendar month concurrently with the payment of the installment for the first full calendar month of the Initial Tenn.

3.2 Date of Occupancy: Commencement of Rent Obligation

(a) The obligation of Tenant to pay Rent begins on the Date of Occupancy. The Date of Occupancy is the earlier of: (a) the 30th day after the Premises are available for Tenant's occupancy, or (b) the day Tenant actually takes possession of the Premises and begins to use the Premises for any or all of the Permitted Uses.

(b) Tenant agrees to execute a letter to Landlord upon written request confirming the Date of Occupancy within fifteen business days after the Date of Occupancy has occurred.

Example

3.3 Tenant's Entry before Term without Charge

(a) With the prior approval of Landlord, Tenant may enter the Premises before the Date of Occupancy without payment of any additional sums in order to install telephone equipment, cabling, furniture, and fixtures, and otherwise to prepare the Premises for occupancy by Tenant. Landlord must not withhold or delay such approval, provided that Tenant coordinates Tenant's work with any other work being performed by Landlord so as not to interfere with or increase the cost of such work of Landlord or delay the Date of Occupancy. As a condition of granting such approval, Landlord has the right to require that a representative of Landlord accompany Tenant and Tenant's contractors.

(b) In order to assist Tenant with Tenant's preparation, move into, and occupancy of the Premises, Landlord must provide Tenant and Tenant's agents and contractors with all information concerning the buildings' structures, systems, utilities, equipment, and services that Tenant reasonably requests. Landlord must provide such information with reasonable promptness, whether before or after commencement of the Term.

4. LANDLORDS COVENANTS

4.1 Ownership: Signatory Authority; Debarment: Pending Proceedings: Changes

Landlord warrants and represents:

(a) Landlord has record title to the premises of which the Premises are a part, and that there are no encumbrances affecting the Premises or buildings thereon that would prohibit or interfere with the Tenant's use of the Premises for the Permitted Uses.

(b) Landlord's name appears in this Lease exactly as Landlord's name appears on Landlord's record title to the Premises if Landlord owns the Premises, or exactly as Landlord's name appears in Landlord's lease if this Lease is a sublease.

(c) Landlord has full legal capacity to enter into this Lease.

(d) Landlord is validly organized and existing. Landlord is in good standing in the state, commonwealth, province, territory, or jurisdiction of Landlord's organization. Landlord is authorized and qualified to do business in the Commonwealth of Massachusetts.

(e) The execution of this Lease is duly authorized, and each person executing this Lease on behalf of Landlord has full authority to do so and to fully bind Landlord.

(f) Landlord is not debarred or suspended from contracting with the Commonwealth of Massachusetts under any applicable debarment statute or regulation.

Example

(g) Landlord knows of no pending or threatened action, suit, proceeding, inquiry, or investigation before or by any judicial court or administrative or law-enforcement agency against or affecting Landlord or Landlord's properties wherein any unfavorable decision, ruling, or finding would materially and adversely affect the validity or enforceability of this Lease or Landlord's ability to carry out Landlord's obligations.

(h) If the status of any warranty and representation by Landlord changes or ceases to be accurate during the Term, Landlord must notify Tenant in writing of each such change or cessation within ten business days after the occurrence of such change or cessation and must thereafter, within an additional ten business days, complete and submit to Tenant all commercially reasonable documentation that is necessary and appropriate to such change or cessation, all at no cost or expense to Tenant.

4.2 Delivery of Premises: Compliance with Law

Landlord warrants and represents:

(a) Landlord must deliver the entire Premises to Tenant in good, clean, safe, and ready to occupy condition in adherence to any and all laws, ordinances, or codes and otherwise in accordance with the provisions of this Lease, and common areas to which Tenant has appurtenant rights, and the use of the Premises by Tenant for the Permitted Uses must be in full compliance with (i) all requirements of Landlord's mortgages and insurance policies, (ii) all laws, ordinances, codes, and regulations (including, without limitation, those pertaining to accessibility for disabled persons) of governmental authorities with jurisdiction, and (iii) all regulations of the Board of Fire Underwriters or any similar insurance-rating body or bodies.

(b) Throughout the Term, Landlord must maintain the Premises in good, clean, safe, and ready to occupy condition, and otherwise in accordance with the provisions of this Lease, and areas to which Tenant has appurtenant rights, and the use of the Premises by Tenant for the Permitted Uses must be in full compliance with (i) all requirements of Landlord's mortgages and insurance policies, (ii) all laws, ordinances, codes, and regulations (including, without limitation, those pertaining to accessibility for disabled persons) of governmental authorities with jurisdiction, and (iii) all regulations of the Board of Fire Underwriters or any similar insurance-rating body or bodies.

(c) If, at any time, any governmental authority with jurisdiction or the Board of Fire Underwriters or any similar insurance-rating body notifies Landlord or Tenant that all or any part of the Premises is not constructed or maintained in compliance with any applicable law, ordinance, code, or regulation, and demands compliance, then Landlord, upon receipt of such notification, promptly must cause such repairs, alterations, or other work to be done so as to bring about the compliance demanded. Landlord has the right to defer compliance so long as Landlord contests the validity of any such law, order, or regulation in

Example

good faith and by appropriate legal proceedings, provided that such failure to comply must not in any way interfere with Tenant's use of the Premises for the Permitted Uses, subject Tenant or Tenant's employees or invitees to any increased risk of injury to their persons or property, adversely affect any other right of Tenant under this Lease, or impose any additional obligation upon Tenant.

4.3 Quiet Enjoyment

(a) Landlord warrants and covenants Tenant must have peaceful and quiet use and possession of the Premises without hindrance or interruption on the part of Landlord or any other person for whose actions Landlord is legally responsible, or by any person claiming by, through or under Landlord.

(b) At reasonable times and without interfering with Tenant's use, occupancy, and enjoyment of the Premises, Landlord and Landlord's agents have the right to enter the Premises to make repairs or to view the Premises. Landlord must give Tenant a minimum written notice of 72 hours for such visits; provided, however, that Landlord has the right to enter the Premises at any hour and without the 72-hour notice in the case of an emergency affecting the Premises.

(c) Landlord has the right to enter for the purpose of showing the Premises to prospective tenants only during the last six months of the Term. Landlord must notify in writing Tenant at least 72 hours before showing the Premises to prospective purchasers, tenants, or other parties.

4.4 Correction of Defective Work: Repair of Premises

(a) Landlord must keep, maintain, and repair the Premises, including, without limitation, all equipment and fixtures (whether located within or outside of the Premises) in such good repair, order, and condition as the same are in at the beginning of the Term, reasonable wear and tear, damage that fire or other casualty causes (except as provided in 6.1), and damage that Tenant's negligence, Tenant's breach of this Lease, or Tenant's willful misuse causes excepted. Landlord must make such repairs to the roof, foundation, exterior walls, floor slabs, and common areas and facilities of the Premises and appurtenant areas, including finishes, as are necessary to keep them in good condition.

(b) Landlord must make routine repairs, corrections, and replacements to the Premises and to any improvements outside of the Premises within ten (10) business days after Landlord discovers or Tenant notifies Landlord or Landlord's authorized representative of the condition requiring repair, correction, or replacement, or within such shorter time period as applicable law, code, or regulation requires. A routine repair, correction, or replacement is any repair, correction, or replacement that is not an emergency repair, correction, or replacement as defined in 4.4 (d).

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(c) Landlord must make emergency repairs, corrections, and replacements to the Premises and to any improvements outside of the Premises that service the Premise immediately upon Landlord's discovery of or Tenant's notice to Landlord or to Landlord's authorized representative of the condition requiring repair, correction, or replacement. An emergency repair, correction, or replacement is any repair, correction, or replacement that is required to remove an immediate threat to the life, health, or safety of any person or property upon the Premises or the appurtenant areas described in 2.1.

(d) Landlord must complete all repairs, corrections, and replacements (i) at Landlord's sole cost and expense, (ii) in a good and workmanlike manner, (iii) with respect to repairs, corrections, and replacements of the Premises with materials of equal or better quality than the original, and (iv) in compliance with all applicable laws, ordinances, codes, and regulations.

(e) In (i) scheduling and carrying out the repairs that this Lease requires, (ii) making any optional repairs, alterations, or improvements to the Premises, and (iii) performing routine maintenance of building systems, fixtures, or equipment, Landlord must make all reasonable efforts to minimize interference with Tenant's access to and use of the Premises. If any such repairs or maintenance by Landlord causes Tenant to be deprived of the use or quiet enjoyment of all or a material portion of the Premises for a period of more than two consecutive business days, Rent for each succeeding day must be abated in proportion to the deprivation.

4.5 Delivery of Services and Utilities

Landlord must furnish the services, utilities, facilities, and supplies, as set forth in Exhibit C, including separate meters for electricity, water and sewer. The Tenant shall be responsible for paying the separately metered electric, water and sewer charges.

4.6 Hazardous Substance

(a) Landlord represents that Landlord has no knowledge of, and has not received any notice of, the current or past existence of any material, currently considered to be a Hazardous Substance, that is existing, deposited, or discharged on or from, or transported to, from, or across, or migrating toward or across the Premises. For purposes of this Lease, Hazardous Substance means (i) any "hazardous substance," "hazardous material," 'toxic substance," "hazardous waste," "hazardous pollutant," or "toxic pollutant," oil, asbestos, urea formaldehyde foam insulation, or "solid waste," as presently defined or otherwise denominated as hazardous, toxic, or a pollutant or a special waste in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as modified from time to time (42 U.S.C. 9601 g! seq.) (CERCLA), the regulations promulgated under CERCLA, and the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.); (ii) any additional substance or material that is incorporated in or added to the definition of "hazardous substance" for the purposes of such laws; (iii) a substance listed in the United States Department of Transportation Table (49 CFR 172.101, as modified) or by the Environmental

Example

Protection Agency (or any successor agency) as a hazardous substance (40 CFR Part 302, as modified); (iv) any hazardous waste or solid waste, as defined in the Resource Conservation and Recovery Act of 1976, as modified by the Hazardous and Solid Waste Amendments of 1984 (42 U.S.C.A. 6901 *et seq.*); (v) any material, waste, or substance that is (A) petroleum, (B) asbestos or an asbestos-containing material, (C) polychlorinated biphenyls, (D) urea-formaldehyde (UFFI) or UFFI-containing material, (E) radon, (F) designated as a "hazardous substance" pursuant to 311 of the Clean Water Act (33 U.S.C. 1251 et seq.), or listed pursuant to 307 of the Clean Water Act (33 U.S.C. 1317); (G) flammable explosive; or (H) radioactive material; and (vi) any additional substance or material that is considered to be a "hazardous substance," "hazardous material," "toxic substance," "hazardous waste, solid waste," or regulated substance or material (including, without limitation, any asbestos containing material) under any state, federal, or local law, rule, or regulation governing health, safety, natural resources, or the environment relating to the Premises or the land upon which the Premises is located, including, without limitation, G. L. c. 21 E (being the Massachusetts Oil and Hazardous Materials Release and Prevention Act) and the definitions of oil and/or hazardous material promulgated thereunder, G. L. c. 21C, Title 5 of the State Environmental Code, G. L. c. 111, § 150A, and any hazardous and inflammable substance regulated under G. L. c. 148. Each reference in this Lease to law, a rule, a regulation, etc., whether specific or general, is to law, a rule, a regulation, etc., that is currently in effect, as modified or supplemented.

(b) Landlord agrees that Landlord must not cause or permit any Hazardous Substance to be used, generated, stored, or disposed of on, under, or about, or transported to, from, or across the Premises, or to migrate toward the Premises, provided, however, that this does not (i) prohibit Landlord from permitting other tenants from using any Hazardous Substance subject to the same provisions that are applicable to Tenant, or (ii) prohibit Landlord and Landlord's contractors from using necessary amounts of cleaning fluids, pesticides, gasoline, solvents, or similar supplies necessary to carry out Landlord's construction, repair, and maintenance obligations under this Lease, any of which constitutes a Hazardous Substance, provided that such use, including storage and disposal, by Landlord is in compliance with the manufacturers' instructions and recommendations for the safe use of such products, and with all laws, rules, regulations, judgments, decrees, orders, licenses, permits, authorizations, agreements, and other restrictions or requirements of governmental authorities relating to the environment, safety, or any Hazardous Substance.

(c) Landlord must promptly take or cause others to take all actions that are necessary to assess, remove, and/or remediate each Hazardous Substance that is on, under, or migrating toward the Premises (unless generated by Tenant), as and to the extent required by all laws, rules, regulations, judgments, decrees, orders, licenses, permits, authorizations, agreements, and other restrictions or requirements of governmental authorities relating to the environment or any Hazardous Substance. Landlord must also take all actions required to prevent such Hazardous Substance from causing injury or damage to Tenant and Tenant's

Example

employees, agents, contractors, and invitees, or if injury or damage cannot be prevented, to minimize such injury or damage to the greatest extent possible.

(d) Landlord must indemnify, save harmless and defend Tenant from all liability, claim, or cost (including reasonable costs of legal counsel and response costs as defined under CERCLA) resulting directly or indirectly from any Hazardous Substance (i) on or under the Premises before the Date of Occupancy, or (ii) after such date with respect to any Hazardous Substance that Landlord, Landlord's employees, agents, independent contractors, or invitees (that include, for the purposes of this 5.6, any other tenant of Landlord, but only if Landlord knowingly permits such tenant to carry out activities involving a Hazardous Substance in breach of Landlord's obligations in this 4.6) release(s) or place(s) on or under the Premises. This indemnity survives termination of this Lease. Promptly upon discovery, Tenant must notify Landlord in writing of any facts or circumstances that give rise to any claim by Tenant.

5. TENANT'S COVENANTS

5.1 Use of Premises

(a) Tenant must use the Premises only for the Permitted Uses set forth in 1.1, provided, however, that Tenant has the right to use the Premises for other purposes if such use is otherwise compatible with all other obligations of Tenant under this Lease.

(b) Tenant must not cause or permit any nuisance in the Premises and must not conduct any activity within the Premises that interferes with the rights of other tenants or occupants of Landlord's adjacent property, if any.

5.2 Care of Premises

Tenant must exercise reasonable care not injure, deface, or commit waste in the Premises.

5.3 Compliance with Applicable Laws and Removal of Liens

Tenant must comply with all laws, orders, and regulations of federal, state, county, and city authorities, and with any of Landlord's reasonable rules and regulations set forth in this Lease. Tenant has the right to defer compliance so long as Tenant contests in good faith the validity of any such law, order, or regulation by appropriate legal or administrative proceedings. Tenant must not cause or allow any liens of any kind to be filed against the Premises. If any liens are filed, within forty-five days after receiving written notice of such filing, Tenant, at Tenant's sole cost and expense, must take whatever action is necessary to cause such lien to be bonded off or released of record without cost to Landlord.

Example

5.4 Assignment and Subletting

(a) Tenant must not assign, sublet, mortgage, pledge, or encumber this Lease (the result of any such action being referred to as a "Transfer") without Landlord's prior written consent, which Landlord must not unreasonably withhold, condition, or delay. By valid written instrument, any transferee must expressly assume, for the transferee and the transferee's successors and assigns, and for the benefit of Landlord, all of the obligations of Tenant under this Lease. Following such transfer, Tenant has no further obligations of Tenant under this Lease.

(b) Any request by Tenant for Landlord's consent to a Transfer must include (i) the name of the proposed transferee; (ii) the nature of the transferee's business and proposed use of the Premises; (iii) complete information as to the financial conditions and standing of the proposed transferee; and (iv) the provisions of the proposed Transfer. Tenant must promptly supply such additional information about the proposed Transfer and transferee as Landlord reasonably requests. Landlord also has the right to meet and interview the proposed transferee.

(c) Landlord must advise Tenant in writing whether or not Landlord consents to a proposed Transfer within 30 days of receipt of Tenant's request for such consent. If such consent is withheld, Landlord must specify the reasons, in writing, to Tenant. If Landlord fails to so notify Tenant within said time period, Landlord is deemed to have given Landlord's consent to the proposed Transfer.

(d) As used in this Lease, "assign" or "assignment" does not include any transfer of Tenant's interest in the Lease by operation of law. Landlord acknowledges and agrees that the use or occupation of all or part of the Premises by an agency of state government other than the Tenant named in § 1.1, or the substitution of another agency of state government for the Tenant named in 1.1, is not a Transfer, provided that the Premises continue to be used for the Permitted Uses. Nevertheless, Tenant must advise Landlord, in writing, if any agency of state government other than the Tenant named in § 1.1 uses or occupies all or any portion of the Premises, or if there is a substitution of any agency of state government for the Tenant named in § 1.1.

5.5 Alterations and Additions

(a) Tenant has the right to make non-structural alterations or additions to the Premises valued at under Ten Thousand ($10,000) Dollars.

(b) For structural or alterations or additions valued at over Ten Thousand ($10,000) Dollars (“Tenant Alterations”), Tenant shall submit to Landlord, for Landlord's approval, plans and specifications that reasonably identify and describe proposed Tenant Alterations. Landlord must review Tenant's plans and specifications, and inform Tenant, in writing, of Landlord's reasonable approval or disapproval within ten (10) business days after submission by Tenant. If Landlord reasonably disapproves, Landlord must identify, in writing, each reason for disapproval and identify, in writing, each modification that must be

Example

made by Tenant in order to obtain Landlord's reasonable approval. If Landlord fails to so inform Tenant of disapproval within ten (10) business days after receipt by Landlord, or fails to so identify each modification that is necessary to obtain Landlord's approval, Tenant's plans and specifications are deemed approved.

(c) All Tenant Alterations must remain the exclusive property of Tenant until Tenant vacates the Premises. At any time, at Tenant's sole option, Tenant has the right to remove any Tenant Alteration and restore the Premises to a similar condition as existed before the Tenant Alteration, reasonable wear and tear, and damage by fire or other casualty, excepted. Any Tenant Alteration remaining on the Premises after Tenant vacates the Premises becomes the property of Landlord without payment.

5.6 Yield Up at Termination of Lease

At the expiration or other termination of this Lease, Tenant must remove all of Tenant's effects from the Premises. Tenant must surrender and deliver up the Premises to Landlord in the condition in which Tenant is required to maintain the Premises, as set forth in this Lease, reasonable wear and tear, and damage by fire or other casualty, excepted. Any personal property of Tenant remaining upon the Premises after Tenant has surrendered possession of the Premises becomes the property of Landlord.

6. CASUALTY • EMINENT DOMAIN

6.1 Fire or Other Casualty

(a) If fire or other casualty damages the Premises or any other property to which Tenant has appurtenant rights under 2.1 (and that is necessary for reasonable access to or egress from the Premises, or for Tenant's use and enjoyment of the Premises, as this Lease contemplates), then, subject to the next paragraph, Landlord must proceed with diligence to establish and collect all valid claims that arise against insurers, based upon any such damage and, subject to the then applicable building codes, zoning ordinances, and other legal requirements, Landlord must proceed with diligence to repair such damage or destruction and to restore the Premises as nearly as practicable to their condition before such casualty, at Landlord's sole expense (but, provided Landlord has maintained the casualty insurance that this Lease requires, only to the extent of insurance proceeds that Landlord's insurers made available to Landlord and to any mortgagee of the Premises).

(b) Notwithstanding the preceding paragraph, if either Landlord or Tenant determines, in Landlord's or Tenant's commercially reasonable business judgment, that Landlord cannot be expected to repair the damage to the Premises within 120 days from the date of the fire or other casualty, due to the character of such damage, or if the remainder of the Term is less than one year, then either Landlord or Tenant has the right to terminate this Lease. Tenant also has the right

Example

to terminate this Lease if Landlord, having notified Tenant of Landlord's intention to repair the damage to the Premises, as provided in this Lease, fails to complete such repairs within 120 days after a fire or other casualty. If neither Landlord nor Tenant exercises a right to terminate this Lease, as provided in this 6.1, Landlord must provide Tenant with substitute Premises for the affected portion of the Premises for no additional Rent, sufficient and adequate for Tenant to conduct business in a commercially reasonable manner, and must bear any relocation expenses incurred by Tenant for relocation from the original Premises to the substitute Premises, and back to the original Premises, provided that Tenant must continue to pay the Rent.

(i) The rights of Landlord and Tenant to terminate this Lease if there is a fire or other casualty are subject to the following notice provisions: Within 30 days after the occurrence of a fire or other casualty, Landlord must notify Tenant of Landlord's election to terminate this Lease in accordance with the preceding paragraph. Tenant must notify Landlord of Tenant's election to terminate this Lease in accordance with the preceding paragraph (i) within 30 days after the occurrence of a fire or casualty or (ii) within 30 days after the expiration of the 120-day period given to Landlord to repair the Premises if this Lease is not terminated and Landlord fails to complete such repair within said 120-day period. Any such termination of this Lease by Landlord or Tenant is effective no earlier than 30 days after the giving of notice. Unless so terminated, this Lease remains in full force and effect, subject, however, to other provisions of this 6.1.

(ii) If any damage to the Premises, or if Landlord's repair of either or both renders any part of the Premises unfit for Tenant's use and occupancy or otherwise prevents Tenant's use and occupancy of such part of the Premises, or (ii) causes a material cessation or reduction in Landlord's Services (as identified in Exhibit C) under this Lease, and (iii) Tenant continues to use and occupy the unaffected portion of the Premises, a proportionate amount of Rent must be abated (unless Tenant has been relocated to suitable substitute premises as set forth in (b) above) until the affected portion of the Premises, Landlord's Services, or both has or have been restored as required under this Lease unless Tenant has relocated to the substitute premises as provided by 6.1 (b).

6.2 Eminent Domain

(a) If all or any substantial part of the Premises is taken for any public or quasi-public use under governmental law or by right of eminent domain (the “Taking”), this Lease terminates at Landlord's election, which Landlord has the right to make notwithstanding the divestiture of Landlord's entire interest in the Premises. Tenant has the right to terminate this Lease if the Taking would materially interfere with Tenant's use and occupancy of the Premises (even if Landlord reconstructs the Premises to the maximum extent practicable in the case of a partial Taking), or, in the case of a partial Taking, if (i) Tenant determines, in Tenant's reasonable business judgment, that Landlord cannot reasonably be expected to complete, within 150 days from the date of the Taking, any reconstruction of the Premises that is necessary for Tenant's use and occupancy

Example

of the Premises in accordance with the provisions of this Lease, or (ii) Landlord, having elected not to terminate the Lease, fails to complete such reconstruction within 150 days after the Taking.

(b) The foregoing rights of Landlord and Tenant to terminate this Lease in the event of a Taking is subject to the following notice provisions: Within 30 days after a Taking of all or a substantial part of the Premises, Landlord must notify Tenant of Landlord's election to terminate the Lease in accordance with the preceding paragraph. Tenant must notify Landlord of Tenant's election to terminate the Lease within 30 days after the Taking, or within 30 days aner the expiration of the 150-day period given to Landlord to restore the Premises after a partial Taking if this Lease is not terminated and Landlord has failed to complete such restoration within said 150-day period. Any such termination of the Lease by Landlord or Tenant is effective no earlier than 30 days after the giving of notice. Unless terminated pursuant to the foregoing provisions, this Lease remains in full force and effect, subject, however to other provisions of this 6.2.

(c) If Landlord does not terminate this Lease after a Taking, or if the Taking effects less than all or a substantial part of the Premises, Landlord must proceed with diligence to establish and collect all valid claims that arise against the Taking authority or others and, subject to the then-applicable building codes, zoning ordinances, and other legal requirements, Landlord must proceed with diligence to restore the Premises, or its remains, as nearly as practicable to their condition before such Taking, at Landlord's sole expense, subject, however, to the extent of the proceeds from the Taking.

(d) If any Taking of the Premises or if Landlord's restoration of either or both (i) reduces the Usable Area of the Premises, (ii) renders any part of the Premises unfit for Tenant's use and occupancy, or otherwise materially interferes with Tenant's use and occupancy of the Premises, or (iii) causes a material cessation or reduction in Landlord's Services under this Lease (even if Tenant continues to use and occupy the Premises), Rent or a just portion of Rent must be abated until the Premises or their remains, such services, or all of them are restored, as this Lease requires. In the case of a Taking that reduces the Usable Area of the Premises, interferes with Tenant's use and occupancy of the Premises, or materially diminishes Landlord's Services on a permanent basis, a just portion of Rent must be abated for the remainder of the Term.

7. INDEMNIFICATION AND INSURANCE

7.1 Indemnification of Tenant by Landlord

Landlord must indemnify, save harmless, and defend Tenant (if so elected by Tenant) from any and all liability, claim, or cost arising, in whole or in part, out of any injury, loss, or damage, or allegation thereof, to any person or property while on or within the Premises or appurtenant areas if caused, or allegedly caused, by any negligence, breach of this Lease, or willful misconduct of Landlord or Landlord's employees, agents,

Example

contractors, servants, or invitees. This indemnity and hold-harmless agreement includes indemnity against all costs, expenses, and liabilities that Tenant incurs in connection with any such injury, loss, or damage, or any such claim, or any proceeding brought thereon or in defense thereof, including, but not limited to, reasonable legal fees and expenses charged by public or private counsel that Tenant employs. This indemnity survives the Expiration Date or termination of this Lease.

7.2 Insurance Coverage to be Maintained by Landlord

1. At all times after the Date of Occupancy and during the Term, Landlord, at Landlord's sole cost and expense, must keep in force a Marine General Liability Insurance policy insuring Landlord against all claims and demands for personal injury or damage to property that are claimed to have occurred upon or about the Premises or appurtenant areas. This policy must be written on an occurrence basis to provide protection in an amount not less than $10,000,000 combined single-limit for personal injury, death, and property damage, with a so-called "broad-form" endorsement and contractual liability coverage insuring Landlord's performance of the indemnity agreement set forth in 7.1. This policy also must name Tenant as an additional insured. Endorsements to the MGL coverage for required insurance must include:

    i Wharfingers Liability

    ii Sudden and Accidental Pollution

    iii Wreck Removal

2. Landlord also must maintain casualty insurance for the Premises (including all fixtures and equipment that Landlord installs, and all alterations and additions that Landlord makes) insuring Landlord against loss or damage that fire and other risks, which are customarily contemplated by "all-risks" endorsements of insurance policies, cause (with such additional endorsements as are necessary to include coverage for vandalism and malicious conduct, floods, boiler explosions, water damage from boilers, plumbing, etc., earthquakes, debris removal, and demolition), in an amount equal to 100% of the replacement cost of the Premises and its fixtures and equipment.

3. The Landlord shall carry and maintain Workers' Compensation Insurance, including Employers Liability Insurance covering all work and services performed under the Contract.

    i. When work will be performed on or near navigable waters, a Longshore and Harbor Workers' Endorsement (USL&H) shall be provided to cover employees for wages, transportation, maintenance, and cure in accordance with applicable laws.

Example

ii. When operations are to be performed upon navigable waterways and barges, Tugboats, and all other vessels on the ocean and all intra-continental rivers and canals, as well as drivers, divers, and underwater personnel are utilized, a Maritime Coverage Endorsement (Jones Act) shall be provided to cover the seamen, masters and members of a crew in accordance with applicable laws, providing remedy for damage or injury in the course of employment.

4. Additional Requirements for all Insurance:

i. Required insurance shall be placed with insurance companies licensed and/or authorized by the Massachusetts Division of Insurance to do business in the Commonwealth of Massachusetts and having a Best's rating of A-/VII or better.

ii. Waiver of Subrogation shall apply in favor of the MBTA and Massachusetts Department of Transportation (MA DOT) on the Marine General Liability and Workers' Compensation which precludes these insurers from being able to make any subrogation claims against the MBTA or MA DOT.

iii. The MBTA shall be given at least 30 days advance written notice in the event of any insurance policy cancellation and a minimum of 10 days-notice for non-payment of any premium.

iv. Required insurance shall be placed before the Lease is commenced and be kept in full force and effect throughout the term of the Lease, or longer if required by the terms of the Lease.

v. The MBTA and the Massachusetts Department of Transportation (MA DOT) and its officers, officials, employees and volunteers shall be named as an additional insured on a primary and non-contributory basis on the Marine General Liability policy. The MBTA may require that other entities be named as additional insureds under certain policies, if appropriate.

vi. Prior to the effective date of the Lease, and throughout the term of the Contract, the MBTA shall be provided with certificates of insurance with the MBTA and MA DOT named as an additional insured and evidencing that such insurance policies, including required limits and sub limits, are in place and provide coverage as required. The Scheduled Additional Insured, Waiver of Subrogation, Primary/Non-Contributory and Cancellation Notification Endorsements should be attached to the Certificate of Insurance.

vii. Upon request and at its sole discretion, the MBTA shall be provided with a copy of complete and unredacted policies at any time throughout the term of the Lease.

Example

viii. Required insurance shall include coverage for acts of terrorism certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act of 2002 and extensions.

ix. Unless specific limits for subcontractors are required by the Contract, the Landlord shall ensure that all subcontractors are properly insured to cover their operations performed pursuant to the Contract. The Landlord shall be held responsible for any modifications, deviations, or omissions in the compliance with these requirements by the subcontractors.

x. No primary or excess liability follow-form insurance shall provide that defense costs erode the policy limits.

xi. No Marine General Liability insurance to be maintained by Landlord shall contain: (a) any insured-versus-insured cross-liability or cross-claim exclusion or endorsement barring coverage for claims by the MBTA against Landlord or any subcontractors.

5. Certificate of Insurance Special Instructions | Included in Minimum Insurance Requirements section

i. The MBTA has retained the services of DOCUTRAX to ensure Landlord's compliance to agreed contractual terms as they relate to specified Insurance requirements. The Landlord will receive email communications from DOCUTRAX requesting a Certificate of Insurance in accordance with the Insurance Requirements of the contract. The Landlord shall provide a Certificate of Insurance within ten (10) business days from receiving the Notice of Award.

ii. The insurance policies that the Landlord shall carry are outlined in the MBTA Insurance Requirements section of the contract. The Landlord certifies that they will carry such insurance policies and all resulting costs are included in the contract amount.

iii. Certificates of Insurance for policy renewals shall be provided promptly upon request by the MBTA or DOCUTRAX. The Landlord shall provide the Contact Name and Email of the person responsible for handling Certificates of Insurance.

7.3 Tenant's Self-Insurance

Landlord and Tenant acknowledge and agree that Tenant is self-insured and that this Lease does not require Tenant to procure or maintain insurance of any kind for payment of damages to Landlord or to any other party.

7.4 Waiver of Subrogation

Example

To the extent that insurance proceeds are actually recovered under insurance maintained by or for the benefit of Landlord or Tenant (Tenant being under no obligation to maintain any insurance), Landlord and Tenant each releases the other from any and all liability paid for on account of such proceeds, and to such extent (and only to such extent), each waives all claims by way of subrogation. All insurance that is carried by Landlord with respect to the Premises, whether or not required by this Lease, must include provisions that deny to the insurer acquisition by subrogation of rights of recovery against Tenant to the extent such rights have been waived by Landlord, insofar as and to the extent that such provisions may be effective without making it impossible for Landlord to obtain insurance coverage from responsible companies qualified to do business in Massachusetts, even though extra premium may result from such provisions.

8. DEFAULT

8.1 Event of Default by Tenant

Each of the following is an "Event of Default" by Tenant:

(a) Tenant fails to pay, when due, any sum of money due to Landlord by Tenant under this Lease, whether such sum is an installment of Rent or any other payment or reimbursement, and such failure continues for a period of thirty (30) business days after written notice from Landlord.

(b) Tenant fails to comply with any other obligation or covenant of Tenant under this Lease, and fails to cure such failure within 30 days after receiving written notice from Landlord specifying such failure, or for those failures that cannot be cured within such 30-day period, if Tenant fails to commence such cure within such 30 day period and thereafter fails to diligently pursue such cure to completion.

8.2 Remedies of Landlord

(a) Upon the occurrence of an Event of Default by Tenant, in addition to the remedies described in 8.3 and any other remedies available to Landlord at law or in equity, Landlord has the right to terminate this Lease upon not less than 60 days prior written notice to Tenant; provided, however, that in the case of a nonmonetary Event of Default by Tenant that poses an immediate threat to the health or safety of persons or property, Landlord has the right to reduce said 60-day notice period to fifteen days. Upon such termination, this Lease comes to an end as fully and completely as if the Expiration Date stated in such notice were the Expiration Date originally fixed, and Tenant must then quit and surrender the Premises to Landlord as provided in 5.6, but Tenant remains liable for damages arising out of such Event of Default, as provided in this Lease.

(b) Upon termination of this Lease by Landlord pursuant to this 8.2, Tenant must pay to Landlord Rent payable by Tenant to Landlord up to the Expiration Date, and

Example

Tenant remains liable for any breach of Tenant's obligations under this Lease occurring before the Expiration Date.

(c) If Landlord terminates this Lease by reason of an Event of Default by Tenant, Landlord must take all reasonable steps to mitigate Landlord's damages, including making reasonable efforts to relet the for a period that is equal to, shorter, or longer than the Term.

8.3 Cure by Landlord

If Tenant fails to perform any of Tenant's obligations, agreements, or covenants under this Lease, and if Tenant does not cure such failure within 30 days after written notice from Landlord specifying the failure or, for those failures that are incapable of being cured within such 30-day period, if Tenant fails to commence such cure within said 30-day period and thereafter to diligently pursue such cure to completion, Landlord, at Landlord's sole option, without waiving or limiting any claim for damages, and at any time thereafter, has the right to perform such obligation of Tenant, provided that Landlord, after notice to Tenant (including telephonic notice), has the right to cure any such failure before the expiration of the waiting period described above if the curing of such breach before the expiration of the waiting period is reasonably necessary to prevent injury or damage to persons or property, including Landlord's interest in the Premises. If Landlord makes any reasonable expenditure or incurs any reasonable obligation for the payment of money in order to cure Tenant's failure to perform, such sums paid or obligations incurred, to the extent they are reasonable, are due from Tenant to Landlord as additional rent. Landlord must deliver to Tenant an itemized statement of all costs that Landlord incurs to cure Tenant's failure to perform, together with copies of all bills, invoices, receipts, and other documents evidencing such costs. Tenant must pay any additional rent due by reason of such costs with the second installment of Rent due after Landlord delivers such statement to Tenant.

8.4 Event of Default by Landlord

Each of the following is an "Event of Default" by Landlord:

(a) Landlord fails to comply with any obligation or covenant of Landlord under this Lease and fails to cure such failure within 30 days after receiving written notice from Tenant specifying such failure, or for those failures that cannot be cured within such 30-day period, if Landlord fails to commence such cure within said 30-day period and thereafter to diligently pursue such cure to completion.

(b) Any warranty, representation, or statement that Landlord makes in this Lease is incorrect or misleading in any material respect on the date made.

8.5 Remedies of Tenant

Upon the occurrence of an Event of Default by Landlord, Tenant has the remedies described in 9.6, if applicable, given the nature of the Event of Default, and any other remedy available to Tenant at law or in equity. In addition, if the Event of Default by

Example

Landlord is of such a nature that the Event of Default materially interferes with Tenant's use or occupancy of the Premises, in Tenant's reasonable judgment, and Landlord fails to fully cure or eliminate the cause or causes of such Event of Default within 30 days following written notice from Tenant stating that such an Event of Default has occurred, then Tenant also has the right to terminate this Lease by giving Landlord a written Notice of Termination that Tenant must give at least ten days before the Expiration Date stated in such Notice of Termination. Upon the Expiration Date, this Lease comes to an end as fully and completely as if the Expiration Date stated in such notice were the Expiration Date originally fixed, provided, however, that Landlord remains liable for any breach of Landlord's obligations under this Lease occurring before such Expiration Date, and Tenant is required to comply with the provisions of 5.6.

8.6 Cure by Tenant

If Landlord fails to perform any obligation, agreement, or condition of Landlord under this Lease, including, but not limited to, failing to make any required repairs or to provide any services, and if such failure interferes with Tenant's use or occupancy of the Premises, in Tenant's reasonable judgment, and if Landlord does not cure such failure within 30 days after written notice from Tenant specifying the failure (or, for those failures that are incapable of being cured within such 30-day period, if Landlord fails to commence such cure within said 30-day period and thereafter fails to diligently pursue such cure to completion), Tenant, at Tenant's sole option, and without waiving or limiting any claim for damages, at any time thereafter has the right to perform such obligation for Landlord, provided that Tenant has the right to cure any such failure before the expiration of the waiting period described above (but after notice to Landlord, including telephonic notice) if the curing of such failure before the expiration of the waiting period is reasonably necessary to prevent injury to persons or property. If Tenant makes any expenditure or incurs any obligation for the payment of money in order to cure Landlord's failure to perform as aforesaid, such monies paid or obligations incurred, to the extent they are reasonable, are deemed paid or incurred on behalf of Landlord, and Landlord agrees to reimburse Tenant therefor or save Tenant harmless therefrom. Tenant must deliver to Landlord an itemized statement of all costs that Tenant incurs to cure Landlord's failure to perform, together with copies of all bills, invoices, receipts, and other documents evidencing such costs. Landlord must promptly pay any outstanding bills for labor, materials, or both, and, within 30 days of Tenant's demand, must reimburse Tenant for any amount that Tenant pays on behalf of Landlord. If Landlord fails to reimburse Tenant within such period, Tenant has the right to deduct the amount from the next or any succeeding payments of Rent due under this Lease.

8.7 Remedies Cumulative

Any and all rights and remedies of Landlord and Tenant under this Lease, at law, and in equity, are cumulative and are not to be deemed incompatible with each other, and Landlord and Tenant each has the right to exercise any two or more such rights and remedies simultaneously, to the extent permitted by law.

Example

9. HOLDING OVER

If Tenant or anyone claiming under Tenant remains in possession of the Premises or of any part of the Premises after the expiration of the Term without any agreement in writing between Landlord and Tenant with respect to such possession, such person is deemed a tenant from month-to-month, subject to the provisions of this Lease insofar as the same are applicable to a tenant from month-to-month.

10. PERSONAL LIABILITY

10.1 Liability of Tenant

No official, director, employee, consultant or agent of the Tenant is ever personally liable to Landlord, or to any successor-in-interest to Landlord, or to any person claiming through or under Landlord for or on account of any Event of Default by Tenant or failure by Tenant to perform any of Tenant's obligations under this Lease, or for or on account of any amount that is due or becomes due under this Lease, or for the satisfaction of any judgment against Tenant under this Lease, or on any claim, cause, or obligation whatsoever under this Lease.

10.2 Liability of Landlord

No trustee, beneficiary, partner, director, officer, shareholder, or employee of Landlord is ever personally liable to Tenant, or to any successor-in-interest to Tenant, or to any person claiming through or under Tenant for or on account of any Event of Default by Landlord or failure by Landlord to perform any of Landlord's obligations under this Lease, or for or on account of any amount that is due or becomes due under this Lease, or for the satisfaction of any judgment against Landlord under this Lease, or on any claim, cause, or obligation whatsoever under this Lease. Notwithstanding the foregoing, nothing in this paragraph limits any right that Tenant otherwise has to obtain injunctive relief against Landlord, or to claim the proceeds of any insurance maintained by Landlord for Tenant's benefit or any condemnation proceeds to which Tenant is entitled under this Lease.

11. NOTICE

11.1 Notice

(a) Unless otherwise expressly permitted under this Lease, all notices or other communication required or permitted to be given under this Lease must be in writing, signed by a duly authorized representative of the party giving notice and given by hand delivery (including, without limitation, courier and overnight delivery service) or mailed by United States certified mail, postage prepaid, return receipt requested.

(b) Unless otherwise expressly stated in this Lease, notices must be addressed and sent to Landlord at the address appearing for Landlord in 1.1 and to Tenant at the

Example

address appearing for Tenant in 1.1, with a copy to Tenant at the Premises (after the Date of Occupancy).

(c) Under this §11, Landlord and Tenant, at any time and from time-to-time, each has the right to designate a different address or different addresses to which notices must be sent.

(d) All notices given in accordance with Section are deemed given, for all purposes, (i) on the date shown on the receipt for delivery or (ii) as of the date notice is sent if delivery is refused or could not be attained.

11.2 Special Notice Where Failure to Reply Results in Consent or Approval

If the consent or approval of Landlord or Tenant is deemed under this Lease to be given to a request or submission following a period of non-reply, such consent or approval is effective only if the outside of the envelope containing the request or submission bears a legend in substantially the form printed below:

NOTICE: THIS REQUEST FOR APPROVAL REQUIRES IMMEDIATE REPLY.

FAILURE TO RESPOND
WITHIN [___] DAYS

RESULTS IN AUTOMATIC APPROVAL.

Such text must also be reiterated on the request or submission itself.

12. FORCE MAJEURE

Whenever this Lease requires performance on or by a fixed date, or within a fixed time or a reasonable time, if war, fire, flood, or other casualty, or strike, governmental regulation (including any delay in the payment of Rent caused by or resulting from an act or an omission of any branch, agency, or department of the government of the Commonwealth of Massachusetts), weather, pandemic, state of emergency, or any other event that is beyond the reasonable control of the party whose performance is required delays performance, the time for performance must be extended for a period that is equal to the duration of the delay.

13. MISCELLANEOUS

13.1 Extension

The Tenant may extend the Term of this Lease for up to three Extension Terms by giving notice to Landlord of the election to extend at least 90 days prior to the expiration of the then current Term. If the Landlord does not receive the Tenant's election to renew, then the Landlord will send a written notice to the Tenant within ten days after the expiration of the 90 day period requesting written notice from the Tenant stating whether the Tenant will be renewing or declining to renew the Lease. The Base Rent for each Extension Term will be

Example

calculated by multiplying the Base Rent from the previous year by one hundred three percent (103%).

13.2 Entire Agreement

This Lease contains all of the agreements between Landlord and Tenant with respect to the subject matter of this Lease and supersedes all prior writings and dealings between Landlord and Tenant with respect to this Lease.

13.3 Changes in Lease

The provisions of this Lease must not be modified in any manner except by a written instrument signed, sealed, and mutually agreed upon by all the parties to this Lease and approved as required by law. No such instrument is void for lack of a recital of consideration.

13.4 Binding Agreement

This Lease binds and inures to the benefit of the parties to this Lease and to their respective representatives, successors, and assigns. All provisions of this Lease must be construed as covenants running with the land.

13.5 Governing Law

This Lease must be construed and governed by the laws of the Commonwealth of Massachusetts, without regarding to any conflict of laws of provisions.

13.6 Waiver

The failure of either party to seek redress for violation or to insist upon the strict performance of any covenant or condition of this Lease does not prevent a subsequent act, which would have originally constituted a violation, from having all the force and effect of a violation. No provision of this Lease is deemed to have been waived by any party unless such waiver is in writing and signed by an authorized representative of the party to be bound by such waiver.

13.7 No Broker

Landlord and Tenant each represents and warrants to the other that no broker, agent, commission salesman, or other person has represented Landlord or Tenant in connection with the procurement or consummation of this Lease.

13.8 Rights and Remedies not Exclusive

Unless otherwise expressly stated in this Lease, no mention in this Lease of any specific right or remedy precludes Landlord or Tenant from exercising any other right, having any other remedy, or maintaining any action to which Landlord or Tenant otherwise is entitled, either at law or in equity.

Example

13.9 Accord and Satisfaction

Acceptance by Landlord of a lesser sum than Rent then due must not be deemed to be other than on account of the earliest installment of such Rent due, and any endorsement or statement on any check of Landlord or Tenant, or any letter accompanying any check or payment from either Landlord or Tenant to the other, must not be deemed an accord and satisfaction, and Landlord and Tenant each has the right to accept such check or payment without prejudice to such party's right to recover any balance due with respect to such payment or pursue any other remedy provided in this Lease.

13.10 Debarred or Suspended Contractors

Landlord must not accept bids or proposals from, or enter into any contract with, any person or firm for the construction, repair, or maintenance of the Premises if such person or firm is debarred or suspended from contracting with the Commonwealth of Massachusetts, with the government of the United States of America, or with both under any applicable statute or regulation, or is subject to a stop-work order issued by any governmental authority with jurisdiction under any applicable statute or regulation. Landlord must require each person and firm with whom Landlord contracts for the construction, repair, or maintenance of the Premises to agree with Landlord not to accept bids or proposals from, or enter into or continue any contract with, any such debarred or suspended person or firm, or from or with any person or firm subject to any such stop-work order, for all or any part of the construction, repair, or maintenance of the Premises, and Landlord must strictly enforce each such agreement.

13.11 Time of Essence

Time is of the essence to this Lease and to each of its provisions.

13.12 Affirmative Action: Non-discrimination in Hiring and Employment

Landlord must comply with all federal and state laws, rules, and regulations promoting fair employment practices or prohibiting employment discrimination and unfair-labor practices and must not discriminate in the hiring of any applicant for employment or demote, discharge, or otherwise subject any qualified employee to discrimination in the tenure, position, promotional opportunities, wages, benefits, or terms and conditions of their employment because of race, color, national origin, ancestry, age, sex, religion, disability, handicap, sexual orientation, gender identity, as defined by chapter 199 of the Acts of 2011, as amended, or for exercising any rights afforded by law. Landlord commits to exercise diligent efforts in purchasing supplies and services from certified minority or women-owned businesses, small businesses, or businesses owned by socially or economically disadvantaged persons or persons with disabilities.

13.13 Severability

If any provision of this Lease is declared to be illegal, unenforceable, or void, then Landlord and Tenant are relieved of all obligations under that provision (or the application of that provision under circumstances in which that provision is illegal or

Example

unenforceable), provided, however, that the remainder of this Lease must be enforced to the fullest extent permitted by law.

13.14 Notice of Lease

Upon the request of Tenant, Landlord must execute and deliver to Tenant a recordable notice of this Lease.

13.15 No Agreement until Signed

No legal obligation arises with respect to the Premises or other matters covered by this Lease until this Lease is executed by Landlord and by Tenant, and delivery is made by and to each.

13.16 MBTA Employees Barred from Interest

No official, employee, or consultant of the Tenant must ever have any personal interest, direct or indirect, in this Lease or in Landlord, or participate in any decision relating to this Lease that affects the personal interest of such official, employee, or consultant, or that affects the interest of any corporation, partnership, or association in which such official, employee, or consultant is, directly or indirectly, interested.

13.17 Paragraph Headings

The paragraph headings in this Lease are for convenience of reference only and in no way define, increase, or limit the scope or intent of any provision of this Lease.

13.18 Counterparts

This Lease is executed in multiple counterparts, each such counterpart is an original for all intents and purposes, and all such counterparts together constitute one and the same Lease. Electronic signatures shall be taken as originals.

13.19 Tenant Termination Right

The Tenant may terminate this Lease upon one hundred twenty (120) days' notice to the Landlord without any liability whatsoever for damages, penalties, or other charges arising from early termination, and without further recourse to either party; provided, however, that Tenant must pay all Rent and any other charges due to Landlord for the period before Tenant's surrender of the Premises.

Landlord and Tenant have executed multiple counterparts of this Lease, under seal in accordance with the laws of the Commonwealth of Massachusetts.

LANDLORD:

By: _____

Example

TENANT: MASSACHUSETTS BAY TRANSPORTATION AUTHORITY

By: _____

Example

Exhibit A
Plan Showing Location of Premises

Example

Exhibit B

Example

Exhibit C

Specifications for Premises

Example

Attachment 2 - MBTA Insurance Requirements

A. **Marine General Liability (MGL):** The Contractor shall carry and maintain Marine General Liability Insurance covering all operations by or on behalf of the Contractor on an occurrence basis against claims for bodily injury, property damage (including loss of use), personal injury and advertising injury with limits not less than $10 million. Endorsements to the MGL coverage for required insurance must include:

1. Wharfingers Liability
2. Sudden and Accidental Pollution
3. Wreck Removal

B. **Worker's Compensation and Employer's Liability:** The Contractor shall carry and maintain Workers' Compensation Insurance, including Employers Liability Insurance as provided by Massachusetts General Laws, Chapter 152, as amended, covering all work and services performed under the Contract.

1. Employer's Liability requires the following minimum limits:
    - $1,000,000 Each Accident for Bodily Injury by Accident
    - $1,000,000 Each Employee for Bodily Injury by Disease
    - $1,000,000 Aggregate Policy Limit for Bodily Injury by Disease.
2. The required insurances coverage specified above shall be placed with insurance companies licensed and/or authorized by the Massachusetts Division of Insurance to do business in the Commonwealth of Massachusetts and having a Best's rating of A- or better.
3. Required insurance shall be taken out before the Contract is commenced and be kept in full force and effect throughout the term of the Contract, shall be primary to and non-contributory to any insurance or self-insurance maintained by the MBTA, and shall require that the MBTA be given at least 30 days advance written notice in the event of any cancellation.
4. At the inception date of this contract and throughout the term of the Contract, the MBTA shall be provided with certificates of insurance evidencing that such insurance policies, including required limits and sub limits are in place and provide coverage as required. Such insurance shall contain a waiver of any and all subrogation rights against the MBTA.
5. When work will be performed on or near navigable waters, a Longshore and Harbor Workers' Endorsement (USL&H) shall be provided to cover employees for wages, transportation, maintenance, and cure in accordance with applicable laws.
6. When operations are to be performed upon navigable waterways and barges, Tugboats, and all other vessels on the ocean and all intra-continental rivers and canals, as well as drivers, divers, and underwater personnel are utilized, a Maritime Coverage Endorsement (Jones Act) shall be provided to cover the seamen, masters and members of a crew in accordance with applicable laws, providing remedy for damage or injury in the course of employment.

C. Additional Requirements for all Insurance:

Required insurance shall be placed with insurance companies licensed and/or authorized by the Massachusetts Division of Insurance to do business in the Commonwealth of Massachusetts and having a Best's rating of A-/VII or better.

Waiver of Subrogation shall apply in favor of the MBTA and Massachusetts Department of Transportation (MA DOT) on the Marine General Liability and Workers' Compensation which precludes these insurers from being able to make any subrogation claims against the MBTA or MA DOT.

The MBTA shall be given at least 30 days advance written notice in the event of any insurance policy cancellation and a minimum of 10 days-notice for non-payment of any premium.

Required insurance shall be placed before the Contract is commenced and be kept in full force and effect throughout the term of the Contract, or longer if required by the terms of the Contract.

The MBTA and the Massachusetts Department of Transportation (MA DOT) and its officers, officials, employees and volunteers shall be named as an additional insured on a primary and non-contributory basis on the Marine General Liability policy. The MBTA may require that other entities be named as additional insureds under certain policies, if appropriate.

Prior to the effective date of the Contract, and throughout the term of the Contract, the MBTA shall be provided with certificates of insurance with the MBTA and MA DOT named as an additional insured and evidencing that such insurance policies, including required limits and sub limits, are in place and provide coverage as required. The Scheduled Additional Insured, Waiver of Subrogation, Primary/Non-Contributory and Cancellation Notification Endorsements should be attached to the Certificate of Insurance.

Upon request and at its sole discretion, the MBTA shall be provided with a copy of complete and unredacted policies at any time throughout the term of the Contract.

Required insurance shall include coverage for acts of terrorism certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act of 2002 and extensions.

Unless specific limits for subcontractors are required by the Contract, the Contractor shall ensure that all subcontractors are properly insured to cover their operations performed pursuant to the Contract. The Contractor shall be held responsible for any modifications, deviations, or omissions in the compliance with these requirements by the subcontractors.

No primary or excess liability follow-form insurance shall provide that defense costs erode the policy limits.

No Marine General Liability insurance to be maintained by contractor shall contain: (a) any insured-versus-insured cross-liability or cross-claim exclusion or endorsement barring coverage for claims by the MBTA against contractor or any Subcontractors.

Attachment 2 - MBTA Insurance Requirements

Certificate of Insurance Special Instructions | Included in Minimum Insurance Requirements section

- The MBTA has retained the services of DOCUTRAX to ensure Contractor's compliance to agreed contractual terms as they relate to specified Insurance requirements. The Contractor will receive email communications from DOCUTRAX requesting a Certificate of Insurance in accordance with the Insurance Requirements of the contract. The Contractor shall provide a Certificate of Insurance within ten (10) business days from receiving the Notice of Award.

- The insurance policies that the Contractor shall carry are outlined in the MBTA Insurance Requirements section of the contract. The Contractor certifies that they will carry such insurance policies and all resulting costs are included in the contract amount.

- Certificates of Insurance for policy renewals shall be provided promptly upon request by the MBTA or DOCUTRAX.

- The Contractor shall provide the Contact Name and Email of the person responsible for handling Certificates of Insurance.

- DOCUTRAX Contact Information
  Daniel C. Allocca | Director of Operations | dallocca@docutrax.com
  O (855) 747-5866 x702 | C (973) 476-5041 | www.docutrax.com

Form B: Technical Response
MBTA RFP Ferry Docking Facility

Instructions: Please answer all the questions below

Vendor:

Question
• Where is the Marina/Dock located?
• What is the linear footage that will be available to the MBTA?
• Please describe the docks/pier per the description in the RFP Scope of Work, (including, but not limited, to size, draft capacity, ability to modify, and the overall facility condition).
• When will the facility be ready for the MBTA to occupy? If facility would require design/construction to prepare for occupancy, provide description of construction plan with estimates for delivery, timelines, milestones, etc.
• Describe the Facility's Features that provide protection against weather impacts.
• Please describe the security system at the docking facility
• Does the facility currently have power/electrical access. Please describe
• Does the facility have a potable water option? Please describe
• Does the facility have a septic pump out capability? Please describe
• Does the facility have on site fueling option? Please describe
• Does the facility have a employee parking? Please describe
• Please describe the exterior storage/ laydown area that will be made available to the MBTA
• Please describe the interior shop/storage area. Include proximity to the dock and climate control systems
• Please describe the vehicle access into the provided building (vehicle door size and description).

- Please describe the office area that will be made available to the MBTA. Include proximity to the dock and security systems
- Will the MBTA be allowed to make modifications to the facility? Are there any restrictions? If so, please list the restrictions
- Does the proposed site currently meet the requirements listed in the Scope of Work? If not , what needs to be done to meet the minimum requirements?
- Is regular dock maintenance/repairs included in the monthly lease?
- Is electrical hookup included in the monthly lease or there a separate meter charge?
- Other facility features that could contribute to the benefit of MBTA Ferry Service Operations.

Answers

Form C: Price Proposal
MBTA RFP Ferry Docking Facility

Instructions: Please fill in the highlighted cells

Vendor:			
Lease (dock only)	Annual	5 Year Total	
Years 1-5	$0.00	$0.00	**Basis of Award**
Years 6-10	$0.00	$0.00	
Years 11-15	$0.00	$0.00	
Years 16-20	$0.00	$0.00	
Lease (dock only)			
Additional Services if needed (Mark-up % or Rate)			
Fuel	0%		
Pump out services	$0.00	Per Gallon	
Other	0%		